

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ELISEO GONZALES LUIS, on behalf
of himself and others similarly situated,

Plaintiff,

-against-

MEMORANDUM AND ORDER

Case No. 18-CV-4052 (FB) (VMS)

MARABELLA PIZZA, LLC, PIETRO
PASSALACQUA, GUISEPPE LETO,
and GINGO CORP., d/b/a Marabella
Pizza,

Defendants.

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BLOCK, Senior District Judge:

Magistrate Judge Scanlon issued a Report and Recommendation (“R&R”) recommending that this action be dismissed without prejudice and that the motions relating to Plaintiff’s counsel’s motion to withdraw, ECF Nos. 43, 45, be found to be moot. The R&R advised that objections were due within fourteen days and warned that “[f]ailure to file objections within the specified time waives the right to appeal.” R&R at 7. The R&R was filed and served simultaneously on August 23, 2019. To date, no objections have been filed.

Where clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*,

313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will, however, excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Accordingly, the Court adopts it without de novo review.

SO ORDERED.

/s/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
September 9, 2019